

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Ayala Schreiber,

Plaintiff,

Civil Action No.: _____

v.

Financial Recovery Services, Inc.

**COMPLAINT AND DEMAND
FOR TRIAL BY JURY**

Defendant.

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Plaintiff Ayala Schreiber (“Plaintiff” or “Schreiber”), by and through her attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for her Complaint against the Defendant Financial Recovery Services, Inc. (“Defendant” or “FRS”), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant’s violation(s) of Sec. 1692 et. Seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collection Practices Act (“FDCPA”).

PARTIES

2. Plaintiff is a resident of the State of New York, County of Nassau, residing at 401 Central Ave, Cedarhurst, NY 11516.

3. Defendant is a collection firm with a principal place of business at 4900 Viking Drive, Edina, MN 55435, and, upon information and belief, is authorized to do business in the State of New York.

4. FRS is a “debt collector” as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 1331, as well as 15 U.S.C. Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over any State law claims in this action pursuant to 28 U.S.C. Sec. 1367 (a).
6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391 (b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.
8. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt for Dell, not belonging to the Plaintiff (“Alleged Debt”).
9. On or about April 3, 2012, and again on May 1, 2012, Defendant sent letters to Plaintiff attempting to collect the debt (“Exhibit A” and “Exhibit B”).
10. The Plaintiff previously settled this matter with the previous debt collector SRA Associates, who, upon information and belief, sold or assigned this debt to Defendant.
11. Plaintiff never had a debt with Dell.
12. Upon information and belief, included in the file relating to the debt was information indicating the debt was not Plaintiff’s debt.
13. Upon information and belief, Defendant knew that the debt was not Plaintiff’s debt.

14. Said actions of Defendant are in violation of the FDCPA, 15 U.S.C. §1692e(2), which prohibits misrepresenting the character, amount or legal status of an alleged debt.

15. Said actions of Defendant are in violation of the FDCPA, 15 U.S.C. §1692f(1), which prohibits attempting to collect a debt not authorized by an agreement creating the debt and/or not permitted by law.

16. As a result of Defendant's violative debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

17. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "16" herein with the same force and effect as if the same were set forth at length herein.

18. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §1692e(2) and 15 U.S.C. §1692f(1).

19. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

20. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this complaint to which plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ayala Schreiber demands judgment against the Defendant Financial Recovery Services, Inc. as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. Sec. 1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
October 18, 2012

Respectfully submitted,

By: s/ Aryeh L. Pomerantz
Aryeh L. Pomerantz, Esq.
FREDRICK SCHULMAN & ASSOCIATES
30 East 29TH Street
New York, New York 10016
(212) 796-6053
aryeh@fschulmanlaw.com
Attorneys for Plaintiff